

★ NOV 13 2017 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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JOHN LOPEZ,

Plaintiff,

**REPORT & RECOMMENDATION**  
**17 CV 4191 (RJD)(LB)**

-against-

SQ BROOKLYN INC., SQ CORONA INC., *doing*  
*Business as Sneaker Q*, and LOUIS HONG,

Defendants.

-----X  
BLOOM, United States Magistrate Judge:

11/13/17  
*Recommendation accepted*  
*Case dismissed without*  
*prejudice*  
*for order of*  
s/ RJD

Plaintiff commenced this action on July 14, 2017. ECF No. 1. The Federal Rules of Civil

Procedure provide that

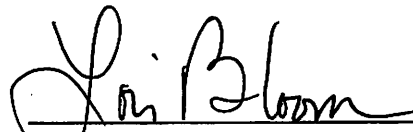
If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). By Order dated August 24, 2017, the Court directed plaintiff to serve defendant Hong with the summons and complaint by October 12, 2017, pursuant to Rule 4(m), or show good cause why defendant Hong was not served by that date. ECF No. 7. The Court warned plaintiff that if he failed to file proof that defendant Hong was timely served or to show good cause why he was not timely served by October 12, 2017, I would recommend that this action should be dismissed without prejudice pursuant to Rule 4(m). Id. Plaintiff failed to comply with the Court's Order. As of the date of this Report, the Court's record does not reflect that plaintiff has filed proof of service of process on defendant Hong. Because plaintiff has failed to file proof of service or show good cause why service was not timely effected, it is respectfully recommended that plaintiff's action should be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

## **FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be made within the fourteen-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital Dist. Physicians' Health Plan, Inc., 293 F.3d 42, 46 (2d Cir. 2002); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED.

  
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LOIS BLOOM  
United States Magistrate Judge

Dated: October 18, 2017  
Brooklyn, New York